

## CHAPTER 65

### COMMISSION OF CLASS “A” FELONIES BY PERSONS UNDER THE AGE OF EIGHTEEN

S.F. 448

**AN ACT** relating to the commission of a class “A” felony by a person under eighteen years of age, providing penalties, and including effective date and applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 902.1, subsection 2, Code 2015, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. Notwithstanding subsection 1, a defendant convicted of murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one<sup>1</sup> the following sentences:

(1) Commitment to the director of the department of corrections for the rest of the defendant’s life with no possibility of parole unless the governor commutes the sentence to a term of years.

(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant’s life with the possibility of parole after serving a minimum term of confinement as determined by the court.

(3) Commitment to the custody of the director of the department of corrections for the rest of the defendant’s life with the possibility of parole.

b. (1) The prosecuting attorney shall provide reasonable notice to the defendant, after conviction and prior to sentencing, of the state’s intention to seek a life sentence with no possibility of parole under paragraph “a”, subparagraph (1).

(2) In determining which sentence to impose, the court shall consider all circumstances including but not limited to the following:

(a) The impact of the offense on each victim, as defined in section 915.10, through the use of a victim impact statement, as defined in section 915.10, under any format permitted by section 915.13. The victim impact statement may include comment on the sentence of the defendant.

(b) The impact of the offense on the community.

(c) The threat to the safety of the public or any individual posed by the defendant.

(d) The degree of participation in the murder by the defendant.

(e) The nature of the offense.

(f) The defendant’s remorse.

(g) The defendant’s acceptance of responsibility.

(h) The severity of the offense, including any of the following:

(i) The commission of the murder while participating in another felony.

(ii) The number of victims.

(iii) The heinous, brutal, cruel manner of the murder, including whether the murder was the result of torture.

(i) The capacity of the defendant to appreciate the criminality of the conduct.

(j) Whether the ability to conform the defendant’s conduct with the requirements of the law was substantially impaired.

(k) The level of maturity of the defendant.

(l) The intellectual and mental capacity of the defendant.

(m) The nature and extent of any prior juvenile delinquency or criminal history of the defendant, including the success or failure of previous attempts at rehabilitation.

(n) The mental health history of the defendant.

(o) The level of compulsion, duress, or influence exerted upon the defendant, but not to such an extent as to constitute a defense.

(p) The likelihood of the commission of further offenses by the defendant.

(q) The chronological age of the defendant and the features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences.

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<sup>1</sup> See chapter 138, §50 herein

- (r) The family and home environment that surrounded the defendant.
- (s) The circumstances of the murder including the extent of the defendant's participation in the conduct and the way familial and peer pressure may have affected the defendant.
- (t) The competencies associated with youth, including but not limited to the defendant's inability to deal with peace officers or the prosecution or the defendant's incapacity to assist the defendant's attorney in the defendant's defense.
- (u) The possibility of rehabilitation.
- (v) Any other information considered relevant by the sentencing court.

Sec. 2. Section 902.1, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 3. a. Notwithstanding subsections 1 and 2, a defendant convicted of a class "A" felony, other than murder in the first degree in violation of section 707.2, and who was under the age of eighteen at the time the offense was committed shall receive one of the following sentences:

(1) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole after serving a minimum term of confinement as determined by the court.

(2) Commitment to the custody of the director of the department of corrections for the rest of the defendant's life with the possibility of parole.

b. In determining which sentence to impose, the court shall consider all circumstances including but not limited to the following:

(1) The impact of the offense on each victim, as defined in section 915.10, through the use of a victim impact statement, as defined in section 915.10, under any format permitted by section 915.13. The victim impact statement may include comment on the sentence of the defendant.

(2) The impact of the offense on the community.

(3) The threat to the safety of the public or any individual posed by the defendant.

(4) The degree of participation in the offense by the defendant.

(5) The nature of the offense.

(6) The defendant's remorse.

(7) The defendant's acceptance of responsibility.

(8) The severity of the offense, including any of the following:

(a) The commission of the offense while participating in another felony.

(b) The number of victims.

(c) The heinous, brutal, cruel manner of the offense, including whether the offense involved torture.

(9) The capacity of the defendant to appreciate the criminality of the conduct.

(10) Whether the ability to conform the defendant's conduct with the requirements of the law was substantially impaired.

(11) The level of maturity of the defendant.

(12) The intellectual and mental capacity of the defendant.

(13) The nature and extent of any prior juvenile delinquency or criminal history of the defendant, including the success or failure of previous attempts at rehabilitation.

(14) The mental health history of the defendant.

(15) The level of compulsion, duress, or influence exerted upon the defendant, but not to such an extent as to constitute a defense.

(16) The likelihood of the commission of further offenses by the defendant.

(17) The chronological age of the defendant and the features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences.

(18) The family and home environment that surrounded the defendant.

(19) The circumstances of the offense including the extent of the defendant's participation in the conduct and the way the familial and peer pressure may have affected the defendant.

(20) The competencies associated with youth, including but not limited to the defendant's inability to deal with peace officers or the prosecution or the defendant's incapacity to assist the defendant's attorney in the defendant's defense.

(21) The possibility of rehabilitation.

(22) Any other information considered relevant by the sentencing court.

NEW SUBSECTION. 4. If a defendant is paroled pursuant to subsection 2 or 3, the defendant shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole.

Sec. 3. Section 903A.2, subsection 5, Code 2015, is amended to read as follows:

5. Earned time accrued by inmates serving life sentences imposed under section 902.1 shall not reduce the life sentence, ~~but~~ or any mandatory minimum sentence imposed under section 902.1, except that earned time accrued shall be credited against the inmate's life sentence if the life sentence is commuted to a term of years under section 902.2, but shall not reduce any mandatory minimum sentence imposed under section 902.1.

Sec. 4. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 5. APPLICABILITY. The sentencing provisions of this Act shall apply to a person who was convicted of a class "A" felony prior to, on, or after the effective date of this Act and who was under the age of eighteen at the time the offense was committed.

Approved April 24, 2015